

Remarks/Arguments

Applicants have received and carefully reviewed the Office Action of the Examiner mailed April 12, 2010. Currently, claims 1, 2, 4-12, 14-16, 18-26, 28, and 29 remain pending and have been rejected. Favorable consideration of the following remarks is respectfully requested.

Claim Rejections – 35 USC § 102

Claims 1, 4, 10-12, 15, 18, 19, 25, 26, and 29 were rejected under 35 U.S.C. 102(b) as anticipated by Dereume (U.S. Patent No. 6,241,738). After careful review, Applicant must respectfully traverse this rejection.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.”

Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). (See MPEP § 2131). Nowhere does Dereume appear to teach or suggest, “a braided member having a proximal portion and a distal portion, the proximal portion of the braided member extending proximally of a distal end of the elongated shaft member and coupled to the distal section of the elongated shaft member and the distal portion of the braided member extending distally of the distal end of the elongated shaft member”, as recited in claims 1, 15, and 29.

Instead, Dereume appears to teach an elongated shaft member 1 having a proximal section and a flared distal section, said flared distal section being devoid of a braided member. The sole references to braids appear to be found in claim 12 and 15 of Dereume where the term is used to refer to the structure of stent 14 which is attached to the distal end of recovery sheath 11. Recovery sheath 11 appears to be of uniform diameter and so does not appear to provide a flared distal end. Further, no portion of the stent 14, said to be fixed at one end of the recovery sheath (see col. 5, lines 56-57), appears to extend proximally of a distal end of the elongated shaft member 11 (See cited Fig. 6.). Although Dereume mentions that it is possible to envisage an embodiment in which the recovery cone, stent 14, may be arranged at the end of support sheath 1, this arrangement would also appear to fail to provide the proximal portion of the braided

member extending proximally of a distal end of the elongated shaft member and coupled to the distal section of the elongated shaft member as recited in independent claims 1, 15, and 29.

Further, although the self-expandable stent 14 of Dereume is said to be radially expandable and axially retractable, the stent appears to be radially self-expandable rather than providing “plurality of filaments are configured to radially expand when axially compressed” as recited in claims 1 and 29. Stent 14 appears to self-expand before it might be subjected to axial compression.

Further still, the retrieval device of Dereume does not appear to be “adapted to retrieve an embolic protection filter” as recited in independent claims 1, 15, and 29

Accordingly, Dereume, as applied to claims 1, 15, and 29, does not appear to anticipate each and every element as set forth in the claim and to do so in as complete detail as is contained in the claim and Applicants respectfully request that the rejections be withdrawn.

Additionally, for similar reasons as well as others, claims 4, 10-12, 18, 19, 25, 26, which depend from claims 1 and 15 respectively, and include significant additional limitations, are believed to be not anticipated by Dereume and Applicants respectfully request that the rejections be withdrawn.

Claim Rejections – 35 USC § 103

Claims 2, 5-9, 14, 16, 20-24, and 28 were rejected under 35 U.S.C. 103(a) as being unpatentable over Dereume. After careful review, Applicant must respectfully traverse this rejection.

If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). (MPEP 2143.03)

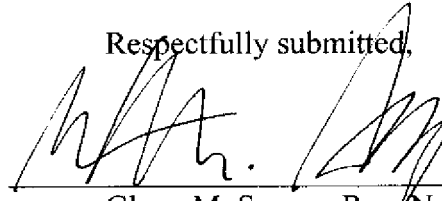
Accordingly, claims 4, 10-12, 18, 19, 25, 26, which depend from nonobvious

independent claims 1 and 15 respectively, also are believed to be nonobvious and Applicants respectfully request that the rejections be withdrawn.

In view of the foregoing, all pending claims are believed to be in condition for allowance. Further examination, reconsideration, and withdrawal of the rejections are respectfully requested. Issuance of a Notice of Allowance in due course is anticipated. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

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